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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,738	09/19/2006	Bernhard Eckhardt	40149/02201 (067P 0975)	2990
30636 7590 03/17/2010 FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038				
EXAMINER				
KELLER, MICHAEL J				
ART UNIT		PAPER NUMBER		
3634				
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03/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/593,738

Applicant(s)

ECKHARDT ET AL.

Examiner

Michael J. Keller

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7, 13, 15 and 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In the reply filed 01/07/2010, Applicant has amended claims 1, 3 and 16. The 35 USC 112 rejection is withdrawn
2. The drawings filed on 01/07/2010 are accepted. The drawing objection is withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-6, 8-12, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. What is meant by "the motion of the catch is solely dictated by the upwardly pulling end and the downwardly pulling end of the pulling device" recited in claim 1, lines 8-9? Examiner assumes that this does not exclude the possibility of other elements which guide the window pane and therefore affect the path of motion and/or orientation of the catch, because it appears that the guide 11 of Applicant's invention affects the motion of the catch.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-5, 8, 12, 14 and 16 rejected under 35 U.S.C. 102(b) as being anticipated by Gobush et al. (US 4,001,971).**

8. Regarding **claim 1**, Gobush discloses a window lift system comprising:

9. a pulling device 67, 77

10. a catch 45 for a window pane, the catch being moved up and down by the pulling device, the catch having a first fastening point 57 for an upwardly pulling end of the pulling device and a second fastening point 55 for a downwardly pulling end of the pulling device, the second fastening point being horizontally off-set from the first fastening point in the window pane plane for transferring torque to the window pane when the window pane is fitted, wherein the motion of the catch is solely dictated by the upwardly pulling end and the downwardly pulling end of the pulling device; and

11. a positioning arrangement 37 positioning and fixing the catch in respect of at least three degrees of freedom.

12. Regarding **claim 2**, the system is mounted in a door 15.

13. Regarding **claim 3**, the catch is fixed with respect to four degrees of freedom (it is only capable of vertical sliding along the rod 37 and rotation around the rod 37).

14. Regarding **claim 4**, the pulling device is a cable.

15. Regarding **claim 5**, see Fig. 1 and 4.

16. Regarding **claim 8**, the arrangement includes a lower stop (the bottom portion of the c-frame 25).

17. Regarding **claims 12, 14 and 16**, the system is mounted in a door 15.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gobush et al. (US 4,001,971) in view of Thomas (US 5,992,099).**

20. Gobush discloses a window lift system according to claim 8, but does not disclose the catch having a locking element for snapping into a recess in the window pane.

21. Thomas discloses a catch 3 having a locking element 30 (Fig. 1a).

22. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to provide the catch of Gobush with the locking element of Thomas, to prevent the window from sliding out of the catch.

23. **As best understood, claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gobush et al. (US 4,001,971) in view of Evulich (US 2,015,622).**

24. Gobush discloses a window lift system according to claim 8, but does not disclose a guiding arrangement comprising walls or a cone.

25. Evulich discloses a guiding arrangement comprising a cone 4 on which a member 1 sits.

26. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to provide the window lift system of gobush with the cone and member of Evulich, in order to prevent the catch 45 from slamming when the window is fully opened.

Response to Arguments

27. Applicant's arguments regarding Gobush have been fully considered but they are not persuasive. Gobush does disclose a single catch (elevator channel 45), and also discloses another catch. The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See, e.g., > Mars Inc. v. H.J. Heinz Co., 377 F.3d 1369, 1376, 71 USPQ2d 1837, 1843 (Fed. Cir. 2004). The term "single" does not exclude the inclusion of a second catch. The following definition is from the Collins English Dictionary:

single [ˈsɪŋɡl̩]
adj {usually prenominal}
3. composed of one part

The single piece elevator channel disclosed by Gobush meets the requirements of this definition. If applicant intends to limit the structure to only a single catch, wording —only a single catch—or —a single catch without any other catches—or similar wording.

28. Each elevator channel is capable of exerting a torque on the window pane. The fact that the torque would not result in any motion of the window pane due to an equal and opposite torque applied elsewhere on the window pane is irrelevant. The claim

language only requires that the locations of the fastening points make it possible to transfer torque to the window pane.

29. Although it is unclear what is meant by "the motion of the catch is solely dictated by..." Examiner has assumed that Applicant is claiming that only the pulling device is capable of causing the catch to move. The pulling device (control cables 67 and 77) is the only element disclosed by Gobush which causes the catch to move; therefore Gobush meets the claim limitation.

Conclusion

30. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Keller whose telephone number is 571-270-5219. The examiner can normally be reached on Monday - Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

/M. J. K./
Examiner, Art Unit 3634